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Telling the Right Story at the Right Time: Women Seeking Asylum with Stories of Trafficking into the Sex Industry

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Alison Jobe 
Durham University, UK

Abstract

Exploring the (re)emergence of human trafficking as a global social problem, this article presents an analysis of asylum determinations where claims for Asylum and/or Humanitarian Protection included accounts of trafficking to the UK. The article traces the emergence of trafficking as a credible claim for refugee status and argues that this recognition was time-specific and story-specific. Trafficking victims were identified by the UK Home Office where a claimant's narrative mirrored the narrowly defined female 'sex trafficking victim' presented in campaigns and fictional depictions of human trafficking in the early 21st century. Through an exploration of the work that trafficking stories did in establishing an 'ideal' trafficking victim in asylum determinations, this article illustrates how social problems and legal judgments can be profoundly shaped by situated and strategic storytelling. These findings develop an understanding of the social construction of, and relationships between, social conditions and micro-meso-macro narratives of identity.

Keywords

asylum, discursive opportunity structures, human trafficking, narrative, narratives of identity, refugee law, social problems, stories

Introduction

Campaigners, politicians, writers, journalists and some academics characterise human trafficking as an emerging social problem which is growing at an alarmingly high rate (Kempadoo, 2012; Weitzer, 2014). Since the beginning of the 21st century, tackling trafficking and trafficking of women into the sex industry has emerged as a priority of the

Corresponding author:

Alison Jobe, Department of Sociology, 32 Old Elvet, Durham University, Durham DH1 3HN, UK.

Email: alison.jobes@durham.ac.uk

international community and national governments throughout the world. As a result, there has been increasing attention given to the prevention of human trafficking in international and national policy and legislation (Kapur, 2012; O'Connell Davidson, 2015).

Critiques of this public and policy discourse on human trafficking highlight the absence of credible evidence for claims of scale, and ongoing problems with definition and response. Academics have highlighted a discrepancy between the large numbers presented within policy documents, by the media and by campaigning groups and the low number of those identified as victims of trafficking (Andrijasevic and Anderson, 2008; Mai, 2009; O'Connell Davidson, 2006, 2015; Weitzer, 2014). Numerous difficulties in defining the trafficking of persons have been identified within the existing legislation and defining trafficking into the sex industry is further complicated by polarised feminist debates on commercial sex work. A consensus on what human trafficking is and a clear understanding of who qualifies as a victim remains elusive.

Other writers have observed that these developments broadly fit with the sociological literature on the constructionist analysis of social problems (see Farrell and Fahy, 2009; Kempadoo, 2012; Mahdavi, 2014; O'Connell Davidson, 2011: 458; Quirk and O'Connell Davidson, 2015; Weitzer, 2007). Similarly, this article draws from the literature on the social construction of social problems (Best, 2017; Loeske, 2015; Spector and Kitsuse, 1977; Thibodeaux, 2014) and in particular from the literature that considers the role of storytelling and narrative in shaping social problems (Loeske, 2018; Plummer, 1995, 2019) and their legal interpretation (Amsterdam and Bruner, 2000; Bruner, 2002). It explores the social and narrative processes through which trafficking became recognised as a social problem and as a credible claim for refugee status in the UK context, and considers what this analysis adds to the sociological literature on social problems. To do so, this article presents an analysis of 23 applications for Asylum and/or Humanitarian Protection that included accounts of trafficking to the UK. The article considers how the UK Home Office, through decisions and judgments on asylum applications, understood and reacted to stories of trafficking, migration, sex work and violence between 2000 and 2005, which is the period when trafficking (re)emerged as a social problem in the UK, and internationally.

'Sex Trafficking': The (Re)emergence of a Social Problem

Public concern over trafficking into the sex industry is not specific to the last two decades and parallels can be and have been, drawn with past public concern over 'the white slave trade' in the late 19th and early 20th century (see Doezema, 2010; Limoncelli, 2010; Self, 2004). Then, as now, anti-trafficking campaigns built upon a representation of innocent female passive victims in need of rescue (Doezema, 2010).

The 1990s and 2000s were busy periods with anti-trafficking campaigners advocating for legislation and services for those identified as victims. The feminist debate focused on polarised understandings of the selling of sex as either an issue of labour migration on the one hand or a manifestation of violence against women on the other. This debate influenced the definition of trafficking in the United Nations (Optional) Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children

2000,¹ resulting in a definition that attempted to appease both sides (Wijers, 2015). The UN definition has since been criticised for the separation of sexual exploitation from labour exploitation (Wijers, 2015) and the inclusion of enigmatic policy terms such as ‘force’, ‘consent’, ‘coercion’, ‘deceit’, ‘abuse’ and ‘exploitation’ (Agustin, 2007; Munro, 2005). This has effectively enabled nation-states to define the relationship between trafficking and commercial sex work within existing frameworks of national policies and practice (Chuang, 2014).

The period immediately following the definition of trafficking in the Palermo Protocol (2000), during which the present research was undertaken (2000–2005), was when a dominant story of trafficking of women into the sex industry (re)emerged in the UK context. The political debate in the UK was heavily influenced by feminist activist groups, academics and politicians who framed trafficking within an abolitionist framework, positioning all commercial sex as violence against women (Kantola and Squires, 2004). Reflecting this, early trafficking legislation in the UK² focused on trafficking into the sex industry only, neglecting trafficking and labour exploitation in other industries, and was criticised for an overly broad definition of exploitation and coercion, where all commercial sex could potentially be considered exploitative (Munro, 2008b).

Despite increasing political debate and policy development, very little was known empirically at this time about the extent or nature of trafficking in the UK. Research up to 2005 was limited to professionals’ impressions and literature reviews (e.g. ECPAT, 2001, 2004; Kelly and Regan, 2000); studies conducted by an organisation assisting those identified as victims (Poppy Project, 2004a, 2004b); or through accounts of women assisted by the same organisation in other studies (see, for example, Zimmerman et al., 2006). These same accounts also appeared in newspaper reports and were used as a basis for TV dramas (such as Abi Morgan’s two-part drama *Sex Traffic*, first broadcast on Channel 4 in 2004). A small number of accounts were therefore influential in framing the debate on trafficking and it is impossible to know how common the experiences recounted were.

Nevertheless, a dominant story emerged in the public and popular imagination. Depictions of women trafficked into the sex industry in the Global North appeared in films, fiction, literature and public awareness campaigns; these depictions overwhelmingly involved non-western (often Eastern European) women who had been duped or tricked into forced prostitution. Extreme forms of violence and control were used by predominantly male trafficker(s) and often involved organised criminal gangs and/or mafia-style criminal networks. Depictions also often involved rescue by states, individuals or institutions from the Global North.³ Reflecting these popular stories, the threshold of victimhood in the UK was set high, with evidence of physical suffering serving as a decisive test for police officers and immigration officials involved in identifying victims (O’Connell Davidson, 2006: 17).

Loeske (2018: 2) reminds us that ‘the narrative form is a vehicle for meaning-making in public moral arguments’ and that ‘exploring relationships among narratives of identity is the examination of theoretical and empirical links among culture and personal meaning, power and social structure’ (Loeske, 2007: 681). Through an exploration of the work that trafficking stories *did* in establishing the ‘ideal’ trafficking victim in UK asylum determinations, this article explores the role that stories play in the construction of social

problems and legal determinations, and considers what this tells us about the social construction of social problems more broadly.

Accessing and Analysing Trafficking Stories

The research presented here is an analysis of 23 cases where women applied for Asylum or Humanitarian Protection in the UK. These were accessed through a charity working with female victims of violence who were funded by the Home Office in March 2003 to run the first trafficking victim assistance project in the UK. Alongside service provision, this charity actively campaigned on anti-trafficking policy and practice, working to frame the debate on trafficking within an abolitionist/neo-abolitionist framework on commercial sex work.

Based on their accounts, those represented in the case files had been identified by the charity as victims of trafficking. The asylum claims presented and examined in this article were therefore made by those who were recognised as credible victims of trafficking by 'experts', including the police, the immigration services and/or third sector anti-trafficking practitioners. These accounts consequently represent a particular story of trafficking into the sex industry and some accounts were also chosen by the charity to feature in campaigns and advocacy work. However, it is important to note that not all accounts examined in this article neatly reflected the public story told by activists involved in public campaigns at the time. This suggests strategic decisions are taken when campaigners highlight social problems through stories. As Loeske (2018: 6) has argued: 'Activists learn that particular kinds of audiences require particular kinds of stories' (see also Best, 2017).

Each asylum case was analysed on-site at the charity's office and approval for each case to be included in the research sample was given by the asylum applicant concerned. While the amount of information in each case file varied depending upon the stage that each asylum case had reached, each case file typically contained the following: transcripts of interviews with the UK immigration services; additional written statements by solicitors putting forward a claim for asylum; responses from the Home Office to initial written applications for asylum (this typically took the form of a 'reasons for refusal' letter); further grounds or written statements for an appeal of the Home Office's decision; and a transcription taken of the appeal court and/or tribunal proceedings. Also, the asylum case files often had supporting statements from various actors including support workers, the police and evidence such as research reports and media reports on trafficking. Included in some of the case files were correspondence between various actors involved in each case. Also referred to in this article are interviews undertaken in 2005 with six legal professionals (four solicitors and two barristers) about their experiences of working on asylum claims involving trafficking. These legal professionals were identified through the case files and were involved in preparing/presenting the asylum cases at appeal.

The case files present accounts of trafficking told through the spoken, recorded and written word. They also included photographic evidence of physical injury and medical diagnoses of Post-Traumatic Stress Disorder arising from sexual violence and abuse. The

applicants' accounts were told for a specific purpose: to claim asylum in the UK. They are therefore framed in their telling and narrative by the policy and practices of the UK asylum application system. The case files also included the reaction and judgments of the UK Home Office to these accounts. The case files provided rich data through which the discursive relationships between personal, organisational, institutional and cultural narratives of trafficking could be explored (Loeske, 2007).

Findings: Telling the Right Story at the Right Time

A relatively high proportion of the 23 cases examined were found to be credible victims of trafficking by the UK Home Office and many cases achieved Asylum and/or Humanitarian Protection. However, as this article will demonstrate, the journey of these applications through the British asylum application process was often complex and contradictory with recognition being both time-specific and story-specific.

This section will explain how those whose stories reinforced the dominant narrative of human trafficking in the early 21st century were able to access services, receive support and achieve refugee status through the telling of their stories. In contrast, those whose stories did not fit the dominant narrative were denied refugee protection, support or justice. In addition to telling the *right story*, this section will begin by exploring how asylum claims made at the *right time* were more likely to achieve refugee status.

In the UK, the asylum claims system is perceived to maintain a 'culture of disbelief' and to discriminate against women's applications, with the available evidence suggesting that women's experiences of sexual assault and violence are not readily recognised in UK asylum determinations (Balliot et al., 2012). To counteract this, non-governmental organisations (NGOs) such as Asylum Aid are campaigning on the longstanding 'protection gap' for female victims of violence when they apply for asylum in the UK. Juxtaposed to this, this study found that a high proportion of female applicants were granted Asylum and/or Humanitarian Protection between 2000 and 2005 where women told stories of trafficking into the sex industry, with successful refugee claims made on this basis becoming more typical towards 2004–2005.

Being identified 'simply' as a victim of trafficking was not routinely accepted as grounds for claiming refugee status during this time. Where applicants were found to qualify for refugee protection due to their trafficking experiences, this was based on the determination of a well-founded fear of persecution upon return to their country of origin. Risks upon return included a risk of re-trafficking, and risks of further human rights breaches, including risks if the home state allowed discrimination against women who have worked in the sex industry; or being subjected to 'honour crimes' due to women having been raped and/or worked in the sex industry. These findings reflect UNHCR (United Nations High Commissioner for Refugees) guidelines (2002) that outline where trafficked women or children may have valid claims to refugee status under the 1951 refugee convention.

Overall, 11 out of the 23 applicants in this study were granted Asylum or Humanitarian Protection. The highest success rate was observed around 2004–2005, with seven applicants granted Humanitarian Protection and Asylum based on the risk upon return due to

their trafficking experiences. All 23 asylum cases were refused at the initial written application stage. Most negative decisions at this stage related to the UK not being obliged to provide protection under refugee law. Frequently at this stage of the asylum application, it was suggested by the Home Office that trafficked women *did not* constitute a social group who may be persecuted under the 1951 UN convention, and, besides, the Home Office assessed in all cases that there was no danger of persecution if the applicant was returned home.

At the appeals stage of the asylum application process, some of the cases were more successful. Fourteen of the asylum applications reached the appeals stage, and of these 10 were successful, while four cases were refused at one or both stages of appeal.⁴ There is a marked difference between the earlier cases within the research sample and later cases in the way they were received and treated within asylum appeals courts. From 2001 to 2003, six asylum appeals were heard. During this time, four were refused Humanitarian Protection or Asylum and two were granted Humanitarian Protection but not Asylum (meaning their claims fell outside of the 1951 United Nations definition of a refugee and the 1967 protocol), and only one applicant was granted Humanitarian Protection on the grounds of their trafficking account.

In contrast, of the nine appeals heard in 2004/2005, eight were granted Asylum and Humanitarian Protection, all on the grounds of accounts of trafficking. In all the successful asylum appeals from 2004/2005 applicants *were* found to be members of a social group, 'women trafficked for the purposes of prostitution'. These cases were consequently granted both Asylum and Humanitarian Protection by asylum judges at appeal. A broader analysis of cases supported by the trafficking assistance project reported that the success rate of asylum applications by women identified as trafficking victims *and* supported by the trafficking assistance project were six times higher at appeal than asylum application success rates overall, with 80 per cent of the 32 cases included in the broader study being granted refugee status and/or humanitarian protection between December 2001 and August 2005 (Richards et al., 2006).

This recognition of trafficking into the sex industry as a claim for refugee status in UK asylum determinations reflects a broader trend of the early 21st century where trafficking into the sex industry became an increasingly high-profile issue both in the United Kingdom and internationally. Around this time, as feminist groups campaigned for the trafficking of women into the sex industry to be a priority in public and policy agendas, feminist legal scholars argued for the recognition of trafficking into the sex industry as gender-based persecution (e.g. Shearer-Demir, 2003) and for refugee status for those identified as trafficked into prostitution (e.g. Jarvis, 2004). It is against this background of awareness-raising and activism that the asylum claims presented in this article were heard and achieved high rates of success in a legal process otherwise hostile to asylum seekers in general and women seeking asylum in particular.

What is clear from the 23 asylum case files is that applicants' stories were not the only stories considered in the determination of asylum claims. An account of trafficking was considered credible, or not, depending upon its degree of coherence or consistency with other accounts told by other tellers: such as policymakers and governments, the media, other trafficking victims, academics and other researchers.

In many of the asylum appeals, background evidence was referred to as having assigned credibility to an account. At one appeal in September 2005 the judge stated:

The appellant has given me a clear, concise, convincing and harrowing account of what has happened to her when she first came to the United Kingdom having unwittingly left the Ukraine to be trafficked almost as soon as she came to the United Kingdom. There has been placed before me a myriad of objective documentation in support of this appellant and what has happened fits in with all the objective evidence before me.

In this case, the ‘myriad of objective documentation’ referred to newspaper reports, grey literature and research reports on trafficking, medical reports and support letters from NGOs in support of the asylum application. This was typical of the range of evidence used in asylum cases. Many of the asylum cases included newspaper reports as evidence. Legal representatives included these to show how applicants’ accounts were like other stories of trafficking. Media reports about trafficking from the BBC, BBC online, the *Sun*, the *Evening Standard*, *The Economist*, *The Times* and *Times* online were used as supporting evidence in the asylum case files.

In addition to the media reports used as evidence to support asylum applications, some legal professionals, interviewed for this study, specifically identified and acknowledged the role of the documentaries and drama in making trafficking accounts visible to legal professionals:

Certainly, a few of the adjudicators have been profoundly shocked by some of these TV programmes definitely, and got to know what is happening. (Barrister)

I mean things like that television programme [referring to *Sex Traffic*, Channel 4] and things of that nature. It was very powerful and very good, I thought actually, and very hard-hitting in the way of making people realise that these are these stories are true. . . . Ironical isn’t it? That it’s a drama that makes people realise things are true (laughs). A fiction. (Solicitor)

Indeed, the trafficking stories examined in this article were told at the *right time* and were also frequently the *right story*. Reflecting the publicly narrated trafficking stories of the time, these asylum applicants’ stories had to demonstrate the right balance of coercion and (fettered) agency to be considered credible stories of victimhood (see also Jobe, 2008). Below is a response to one applicant’s statement at appeal by an asylum judge in 2004:

It has been accepted by the respondent that the Appellant has indeed been trafficked . . . the Appellant was beaten up regularly; raped and ill-treated . . . she and the other women were kept as prisoners. She was deprived of sleep, taken to various places so that she did not know where she was. She thought of escape constantly and was able to try on two occasions unsuccessfully. She was in their hands and they could do what they wanted with her if she did not do what she was told. (Home Office Adjudication, 2004)

The Home Office considered women to be victims of trafficking into the sex industry where a story of sexual innocence, extreme violence and imprisonment was recounted. However, some accounts analysed did not so neatly reflect the dominant trafficking story. These were also stories where applicants described engaging smugglers to facilitate their migration; stories where applicants described willingly migrating to work in the sex industry; stories where applicants recalled working in the sex industry while not under direct coercion or control of a third party; stories where coercion by organised criminal networks did not feature. These were stories involving complex and sometimes contradictory lived experience; stories of victimhood and agency experienced at different times, and in different ways.

Where accounts did not neatly reflect the 'right balance' of coercion/agency demonstrated in the example above, credibility as an account of trafficking was questioned by the Home Office. In some cases, the Home Office concluded that an account was not credible because the applicant had exercised too much independent agency to be considered a victim of trafficking and therefore was believed to have chosen the circumstances. On the other hand, at other times, the Home Office considered applicants not to have taken enough action to extract themselves from those circumstances and therefore asserted that the situation was effectively chosen through inaction (see also Jobe, 2008). In some cases, where applicants described escaping or otherwise exiting from the control of a third party on their own without assistance from the UK authorities, doubts regarding the credibility of their stories were raised. These findings echo Christie's (1986) classic 'ideal victim' (see similar observations by O'Brien, 2013) and past research findings on the outcome of rape cases in UK criminal courts where a conviction was more likely where women were judged to be 'good victims' (e.g. Adler, 1987; Lees, 1996; see also Loeske, 2007).

Furthermore, for an account to be believed by the Home Office, alongside the need for a delicate balance between an applicant's agency and a trafficker's coercion, an applicant's story should include the 'right' kind of trafficker. Applicants were considered to have more agency in situations where they described being forced to work in the sex industry by someone they described as a boyfriend or partner. In these cases, accounts were not understood to be consistent with a story of trafficking into the sex industry. By contrast, where organised crime groups were reportedly involved in trafficking, accounts were considered more believable:

The behaviour of X and what actually occurred to the claimant does not smack to us of large-scale organised trafficking or anything like it. . . . Although there is mention of sexual intercourse in which she is not a fully consenting partner there is nothing in her statement about being raped or beaten, let alone being subject to horrific violence.

In this above extract, it is unclear in the judge's reasoning what he considers to be the difference between 'sexual intercourse in which she is not a fully consenting partner' and rape. Often in their judgments, the Home Office applied a hierarchy of violence with some violence (which would be prosecutable in the UK criminal courts) not being consistent with the levels of violence required for a credible trafficking story. Also, past

sexual experiences were frequently used against applicants to discredit their claims to victimhood. As Munro (2008a: 243) has argued, the creation of the 'prototypical ideal trafficking victim . . . mirrors the dichotomy between "deserving" and "undeserving" victims that much feminist work has identified, deconstructed and challenged in other areas of sexual violence'.

For many applicants, recognition as a victim of trafficking came through a process of victim identification which effectively removed the label of 'prostitute' or sex worker, and 'illegal migrant' (see also Aradau, 2008). In all 23 statements to the Home Office analysed, applicants believed that the UK authorities had viewed and treated them as criminals at some stage. One recalled being treated as a 'criminal' or as a member of a 'group of animals' and another as 'some sort of terrorist'. Later the same women came to be recognised by the same authorities as 'trafficking victims' and through this new label are offered help and assistance by state-funded projects, with some receiving state protection through Humanitarian Protection or Refugee status.

To qualify as a victim of trafficking, applicants could not indicate in their stories that they had been willing to work in the sex industry. Stories were questioned by the Home Office where awareness of migrating to work in the sex industry was indicated or if applicants worked in the sex industry while not under the direct control of a third party. Where any of the applicants in this study described choosing sex work as an occupation, this was seen as either inconsistent with being subjected to coercion or force; or the human rights violations and/or violence and abuse committed against the applicant was regarded as insufficiently serious.

The operation of sex work stigma in legal discourse is well documented. Historically, the category 'prostitute' has been criminalised and subject to constant control and legislation with the 'prostitute' juxtaposed to the 'respectable woman' (Kennedy, 1993). The successful refugee claims in this study do not disrupt this binary, but rather confirm it. For the women in this study to be granted asylum, they had to be understood as respectable women who had been victimised through their trafficking experiences.

Discussion: Trafficking Stories and the Social Construction of Social Problems

The (re)emergence of 'sex trafficking' as a social problem presents an opportunity to explore the relationships between personal, institutional, organisational and cultural narratives of identity (Loeske, 2007). In this study, personal narratives were analysed alongside UK Home Office (institutional) responses to, and charity/NGO (organisational) and cultural representations of, trafficking into the sex industry. A key finding is that each of these narrative identities reflexively influenced and defined the others in the social construction of 'sex trafficking' as a recognisable, definable and actionable social problem in the UK context.

Loeske (2007) suggests that sociological analysis should consider the work that different narratives of identity *do*. In this study, personal accounts were narrated in claims for asylum and/or humanitarian protection and accounts were selected by campaigners to draw attention to the issue in anti-trafficking campaigns and advocacy, alongside the

creation of TV dramas; film and media reports. Within this context, through decisions on asylum applications, the Home Office determined who qualified as a victim of trafficking and how this related to refugee status/law.

This invites the question: what happens when personal and/or organisational and cultural narratives are involved in the social construction of institutional (or legal) narrative identities? Loeske (2007: 661) argues that: 'different types of narrative identity . . . are created for different purposes, do different types of work and are evaluated by different criteria'. Where women's personal accounts of violence and victimisation are used in feminist campaigns, Loeske (2007) argues that this may achieve a degree of cultural change but has not always worked to benefit *all* women experiencing violence. When such personal narratives work to frame institutional narrative identities and responses, social processes of inclusion and exclusion inevitably follow. In this study, the construction of a formulaic or dominant story of 'sex trafficking' through campaigns and cultural representations framed Home Office responses to asylum claims. This simultaneously increased the likelihood of success for some applicants in this study while narrowing the definitional criteria for others. This effectively excluded those who did not fit restrictive 'ideal' victim narratives found in public and policy discourse, meaning that rights and protection were accessible only to those telling the 'right' story.

These narrative processes of inclusion and exclusion reflect longstanding public moral arguments on sexual violence, sexuality and the selling of sex (see also Miller, 2004). Loeske (2018: 2) reminds us that 'such arguments are moral because they are about who is valued and who is despised'. Indeed, through campaigns and cultural representations of trafficking, and the legal determinations examined in this study, we learn of innocent victims in need of rescue and guilty agentic women who are held personally responsible for any risks they are perceived to take (see also Wijers, 2015: 1). Alongside a hierarchy of victimhood where only those who had evidenced the most extreme suffering and abuse are offered protection (see also Andrijasevic and Anderson, 2009; O'Brien et al., 2013; O'Connell Davidson, 2015) are sexual hierarchies which prioritise some sexual behaviours over others, placing the claims of those who describe consenting to sex work, or who otherwise have sexual histories, for example, outside of the story required for a legitimate human rights claim (see also Miller, 2004).

Also evident in Home Office determinations were culturally bound judgments of women from Eastern Europe and the Global South, where applicants were not considered to have the agency to consent to either migration or sex work. These narrative identity processes worked more broadly in UK policy and state responses on trafficking to frame women from Eastern Europe and the Global South as passive victims and to deny their agency as migrants and/or as sex workers (see also Agustin, 2007; Doezema, 2010; Kapur, 2005; Kempadoo et al., 2012). Through the narrative identities here (re)produced in legal determinations an 'acceptable' story of trafficking is at once reflected and dictated. Narrative identities in such legal frameworks have powerful social functions (Loeske, 2007) and here worked to create unequal access to social justice and resources, reinforcing the same social inequalities that international concern about trafficking initially appeared to seek to address.

The success of the asylum claims examined in this study, therefore, does not indicate a challenge to the broader social construction of British asylum law highlighted as

problematic in other studies but instead confirms it. The successful claims analysed reflected pre-existing normative social constructions (or symbolic codes) of gender, sexuality, ethnicity, national identity, sexual violence and sex work, while simultaneously disqualifying other stories. This demonstrates the simultaneously oppressive and constructive nature of claims-making processes and the power of narratives/stories to construct and limit understandings of social problems in legal judgments (see also Amsterdam and Bruner, 2000; Bruner, 2002; Loeske, 2018).

Through this analysis, this study attends to a longstanding debate within the sociological literature on the construction of social problems. Namely, that all versions of constructionism within the literature on social problems ‘fail to eliminate social conditions as causal variables’ (Thibodeaux, 2014: 829). To address this, Thibodeaux suggests that analyses of social problems should revisit the relationship between both social conditions and the social problem itself and the claims-making processes that re/define and re/construct the problem. Construction can thus be conceived as both an external (‘conditioning’) and an internal (‘interactive’) process. Through this, ‘both the reality of the problem and the “purely social” factors affecting claims makers are reinterpreted as potential contributors to the social context in which a social problem becomes important and takes its particular form’ (Thibodeaux, 2014: 835). Thibodeaux (2014: 834) argues for an exploration of ‘opportunity structures’ to consider how ‘political, social and economic conditions influence the timing of the prominence of social problems’.

The emergence of trafficking as a social problem is a fruitful empirical case study through which to explore and develop the implications of these arguments with a focus on discursive opportunity structures (see McCammon, 2013). Global inequalities underpinned the nature of the social problem itself, namely, the vulnerability of migrants to exploitation. Social conditions also contributed to the way trafficking as a social problem was narratively constructed and subsequently recognised. Several studies have explored why trafficking emerged as a global social problem when it did (e.g. Aradau, 2008; Bernstein, 2018; Limoncelli, 2017; Mahdavi, 2014; Suchland, 2015). This discussion will concentrate on the narrative recognition of trafficking accounts in UK asylum determinations. Broader campaigns on preventing sexual and domestic violence against women had been increasingly successful since the 1970s and 1980s, generating a plethora of research, policy, practice and cultural interventions, with some successes in refugee law. Plummer (1995) notes that stories on previously unspoken about issues such as rape, child sex abuse and domestic violence were increasingly told and heard. Government policy had begun to reflect this shift across several areas by this time, at least partly in response to feminist influences. Against this narrative background, personal narratives of violence against migrant sex workers were selected and presented by campaigning groups and appeared in cultural representations, which later worked to frame the problem for legal decision-makers.

Stories strategically selected and framed by activists reproduced symbolic narrative social constructions of gender, ethnicity, sexuality, national identity and the selling of sex. The formation and success of these claims was precisely *because* the dominant public narrative employed recognisable symbolic narrative codes that reflected rather than challenged existing normative social conditions and existing institutional, cultural and organisational narrative identities. The recognition of the trafficking victim in asylum

determinations reflects previous studies of state responses where only 'good victims' of sexual violence (i.e. innocent and respectable women, victimised by the right person in the right way) and 'good migrants' receive state protection and/or justice.

Furthermore, and crucial for recognition in asylum determinations, the 'sex trafficking' story involving 'foreign victims and villains' was essentially non-threatening to the British State, effectively shutting down alternative discourses on the structural and political causes of the abuse and exploitation of migrant sex workers. This enabled the state to present itself as the defender of the rights of women who had been victimised, typically by 'foreign villains'. Particular kinds of stories are more likely to be effective in an asylum system known for a 'culture of disbelief' and historic resistance to women's claims. These claims-making processes coincided with increasing border control and increasingly punitive legislation focused on undocumented migrants and those seeking asylum. Fitzgerald (2012) suggests that the recognition of trafficking into the sex industry by the UK government works to support broader government agendas of border control at home and regulatory capacity overseas, effectively sharpening the division between the 'deserving' and 'undeserving' refugee.

It is now evident that the construction of human trafficking as a social problem has acted to further rather than challenge the social inequalities that render migrants vulnerable to exploitation. Subsequent analyses have demonstrated that trafficking stories have been used to justify stricter immigration controls, forcing migrants towards irregular migration routes and, through the involvement of third parties, potentially exploitative migration experiences (Andrijasevic and Anderson, 2008; Bernstein, 2018; O'Connell Davidson, 2015). This has resulted in broader, and increasingly negative, connotations for those who want or need to migrate, and for migrant sex workers (Andrijasevic and Anderson, 2008; Kapur, 2005; O'Connell Davidson, 2015). In the UK, studies with migrant sex workers have found that the relative absence of policy and practice interventions to counteract a dominant story of exploitation has contributed towards the vulnerability of migrant workers in the UK sex industry, rather than providing protection (Mai, 2009; X-Talk, 2010).

Conclusion

This article develops sociological understanding of the social construction of social problems in two key ways. First, the study illuminates reflexive relationships between various narratives of identity and illustrates the different work these different narratives do (Loeske, 2007, 2018). Second, the study revisits the relationship of social conditions to the timing of the recognition and classification of social problems (Thibodeaux, 2014) and explores how political, social and cultural conditions of the early 21st century contributed to the emergence and contextually specific narrative construction of 'sex trafficking' as a social problem in the UK context.

Now briefly introducing a final point. Placed in context this study presents an example of social problem narrative construction in a specific time and place. Such narratives or stories inevitably 'change, fragment, multiply and disperse' (Plummer, 2019: 3; see also Best, 2015, 2017). Indeed, since the research reported here was undertaken,

trafficking has been subject to ‘domain expansion’ (O’Connell Davidson, 2015: 6; see also Chuang, 2014) with an ever-increasing range of exploitative practices understood as ‘trafficking or modern slavery’. As a result, public and policy attention has moved from ‘sex trafficking’ to ‘supply chain slavery’ and in some contexts from cross border trafficking to ‘internal trafficking’.

This is not to argue that the discursive impacts of a dominant or formulaic ‘sex trafficking’ story has abated (and certainly not to suggest that more recent narrative constructions of trafficking or ‘modern-day slavery’ are unproblematic!). On the contrary, ongoing impact remains evident in policy and practice and since the research presented in this article was completed the sex trafficking victim has been further depicted and caricatured in a vast and growing number of films, artworks, campaigns and literature. The dominant account is also further reflected by campaigning groups (Andrijasevic, 2007; Bernstein, 2010, 2018; O’Brien, 2013), by the media (Gulati, 2011; O’Brien, 2013), in popular culture (Andrijasevic and Mai, 2016) and still frames much public policy and legal discourse (Bernstein, 2018; O’Brien et al., 2013). A formulaic ‘sex trafficking’ story continues to influence public and policy debates despite ongoing challenge.

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ORCID iD

Alison Jobe  <https://orcid.org/0000-0002-5497-2732>

Notes

1. ‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
2. Trafficking into the sex industry was first defined as a criminal act in the Nationality Immigration and Asylum Act of 2002 (later superseded by the Sexual Offences Act 2003, ss. 57–59).
3. Examples include: Film: Duguay C (2005) *Human Trafficking*, Muse Entertainment Enterprises; Moodysson L (2003) *Lilya-4-ever*, Metrodome and BBC4; Morgan A (2004) *Sex Traffic*, Granada Television/Big Motion Pictures/Canadian Broadcasting Corp for Channel

4. Literature (fiction): Bell J (2007) *Dirty Work*, Walkers; (non-fiction) McGill C (2003) *Human Traffic: Sex Slaves and Immigration*, Vision; Malareck V (2004) *The Natashas: The New Global Sex Trade*, Arcade Publishing; Gupta R (2007) *Enslaved*, Portobello Books; Waugh L (2006) *Selling Olga: Stories of Human Trafficking*, Weidenfeld & Nicolson. Documentaries: *The Real Sex Traffic*, first shown on Channel 4 in 2005; Bienstock RE, *Sex Slaves*, first shown in 2005 on Channel 4. Newspaper reports: Arie S (2003) 'Janie's secret', *Guardian-G2*, 5 November, 2–3; Athorne R (2003) 'Black magic women', *The Sunday Times Magazine*, 24 August, 29–35; BBC News (2004) 'A modern slave's brutal odyssey', *BBC News World Edition*, 3 November (www.news.bbc.co.uk/2/hi/europe/3979725.stm, accessed 24 November 2005); BBC News (2007) 'Forced to have sex from 11am to 10pm', *BBC News Online*, 19 March (<http://news.bbc.co.uk/1/hi/england/6224151.stm>, accessed 20 March 2007); Bindel J (2004) 'Tracking the traffickers', *Guardian*, 12 August (www.guardian.co.uk/g2/story/0,,1281156,00.html, accessed 18 January 2005); Buckley M (2005) 'Baltic girls lured into sex slavery', *BBC News World Edition*, 28 November (http://news.bbc.co.uk/2/hi/uk_news/4287432.stm, accessed 29 November 2005); Cowan R (2005) 'Immigrants tell of forced prostitution and slavery as trafficking gang is jailed', *Guardian Unlimited*, 2 November (<http://www.guardian.co.uk/crime/article/0,,1606565,00.html>, accessed 9 November 2005); Gibb J (2003) 'Sex and slavery', *Observer Magazine*, 23 February, 23–29; Roberts Y (2006) 'Raped, beaten and helpless: UK's sex slaves', *Observer*, 2 April, 1; *The Times Online* (2005) 'Girl lured to London was sold to brothel', *The Times Online*, 1 October 2005 (www.time-online.co.uk/newspaper/0,,175-1805467,00.html, accessed 9 November 2005); Vullamy E (2004) 'Inside Europe's slave trade', *Observer Magazine*, 3 October, 20–31.
4. Of the other cases, one applicant was granted Humanitarian Protection before an appeal, two applicants abandoned their asylum claims before final decisions were reached on their cases, two withdrew their cases as their home countries (Lithuania and Latvia on 16 April 2003) joined the Schengen area before their asylum claims were processed, two cases remained ongoing at the end of fieldwork period and two were refused leave to appeal to the Immigration Appellate Authority.

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Alison Jobe is Assistant Professor in Sociology in the Department of Sociology at Durham University. She has been interested in how human trafficking is constructed and interpreted in UK law, policy and practice since completing her doctorate on the topic in 2008 at Newcastle University. Her current research interests include the ongoing international academic and policy debates on the trafficking of persons, asylum seeking and migration, and human rights and sex work.

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